

CHAPTER NO. 101

HOUSE BILL NO. 2036

By Representative Cross

Substituted for: Senate Bill No. 2043

By Senator McNally

AN ACT to repeal Chapter 336 of the Acts of 1903; and any other acts amendatory thereto, relative to the City of Jellico charter, and to enact a new charter for the City of Jellico.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Chapter 336 of the Acts of 1903, and all acts amendatory thereto, are deleted and amended in their entirety by the following charter:

ARTICLE I

CHARTER, DEFINITIONS, CITY LIMITS, CORPORATE POWERS

SECTION 1.01. Act constitutes City Charter. This act shall constitute the whole charter of the City of Jellico, Tennessee, repealing and replacing the charter provided by Chapter 336 of the Acts of 1903, and subsequent acts amending such charter. The City of Jellico in the County of Campbell, and the inhabitants thereof shall continue, and are hereby constituted and declared a body politic and corporate by the name and style of Jellico, Tennessee, and by that name shall have perpetual succession, may sue and be sued, plead and be impleaded, in all the courts of law and equity, and in all actions whatsoever, and may have and use a common seal and change it at pleasure.

SECTION 1.02. Definitions. As used in this charter the following words and terms shall have the following meanings:

(a) "City" shall mean the City of Jellico, Tennessee;

(b) "Board" and "Board of Mayor and Aldermen" shall mean the legislative body of the city, which shall be composed of the mayor, within the limitations and except for the purposes prescribed in this charter, and six (6) aldermen elected as provided in this charter, and any incumbent mayor and aldermen until the expiration of their current terms of office;

(c) "Nonpartisan" shall mean without any designation of candidates as members or candidates of any state or national political party or organization;

(d) "At large" shall mean the entire city, as distinguished from representation by wards or other districts;

(e) "Elector" shall mean a person qualified to vote in Campbell County elections and who is domiciled within the City of Jellico; and

(f) The masculine shall include the feminine, and the singular shall include the plural and vice versa, except when the contrary intention is manifest.

SECTION 1.03. City limits. The boundaries of the city shall be those presently constituted, including all annexations made pursuant to general law.

SECTION 1.04. Corporate Powers. The city shall have power:

(a) To assess property for taxation, and to levy and provide for the collection of taxes on all property subject to taxation;

(b) To levy and collect privilege taxes on businesses and privileges which are taxable under the general laws of the state, and to levy and collect any other kind of tax not prohibited to municipalities by the Constitution or general law. Collection fees therefor may be provided for by ordinance;

(c) To appropriate and borrow money, and to authorize the expenditure of money for any municipal purpose;

(d) To acquire land, including improvements thereon, easements, or limited property rights thereto, by purchase, gift, or condemnation, for public use, for present or future use by the city, to reserve industrial sites, to provide open spaces, to encourage proper development of the community, or for the general welfare of the community. Such acquisitions may be within or outside the city;

(e) To grant franchises or make contracts for public utilities and public service, not to exceed a period of twenty-five (25) years. Such franchises and contracts may provide for rates, fares, charges, regulations, standards, and conditions of service, subject to regulation by the Tennessee Regulatory Authority or other state or federal agency having jurisdiction in such matters. Provided, however, this paragraph shall not affect existing contracts or franchises;

(f) To provide for the acquisition, construction, building, operation, and maintenance of: public ways; parks; public grounds; cemeteries; markets and market houses; public buildings; libraries; sewers; drains; sewage treatment plants; airports; hospitals; water works; docks; gas works; marinas; city forests; tree and shrub nurseries; heliports; terminals; parking garages and lots; industrial sites and buildings; charitable, educational, recreational, sporting, cultural, curative, corrective, detentional, penal, and medical institutions, agencies, and facilities; and to regulate the use thereof. Such property may be either acquired or taken pursuant to the general law for such purposes;

(g) To require property owners to repair and maintain in a safe condition the sidewalks adjoining their lots or lands, including removal of snow, debris or other material;

(h) To make regulations to secure the general health of the inhabitants and to prevent, abate, and remove nuisances. The term "nuisances" shall include, but not be limited to, old or dilapidated buildings which are so out of repair as to be unsafe, unsanitary or unsightly. The city may require the cutting of grass. The city shall have

the power to abate and remove nuisances at the expense of the owner or owners, and the expense, including fines, penalties, and interest, shall be secured by lien upon the property by which the expenditure is made;

(i) To prescribe standards of health and sanitation and to provide for the enforcement of such standards;

(j) To provide for the collection and disposal of garbage, rubbish and refuse. Charge may be imposed to cover the costs of such service which, if unpaid, shall be collectible in the same manner as taxes or other debts. The Board, by ordinance, may prescribe penalties and interest for delinquency;

(k) To define, regulate, and prohibit any act, practice, conduct, or use of property, that would be detrimental, or likely to be detrimental, to the health, morals, safety, security, peace, or general welfare of inhabitants of the city;

(l) To regulate, license and prohibit the keeping or running at large of animals and fowls, and to provide for the impoundment of same in violation of any ordinance or lawful order, and to provide for their disposition by sale, gift, or humane killing when not redeemed as provided by ordinance;

(m) To regulate and license vehicles operated for public transportation in the city; to limit the number of such vehicles; to license the operators thereof; to require public liability insurance on such vehicles; and to regulate and rent parking spaces in public ways for the use of such vehicles;

(n) To provide that the violation of any ordinance, rule, regulation, or order shall be punishable by civil penalty, not to exceed five hundred dollars (\$500) and costs;

(o) To plan for the orderly development of the community, including economic, physical, educational and cultural aspects, and to institute programs to effectuate such plans;

(p) To exercise and have all other powers, functions, rights, privileges, and immunities granted by general law or necessary or desirable to promote or protect the safety, health, peace, security, good order, comfort, convenience, morals, and general welfare of the city and its inhabitants, and all implied powers necessary to carry into execution all powers granted in this charter as fully and completely as if such powers were fully enumerated herein. No enumeration of particular powers in this charter shall be held to be exclusive of others nor restrictive of general words and phrases granting powers, but shall be held to be in addition to such powers unless expressly prohibited to cities by the Constitution or general laws of the state; and

(q) To dispatch fire equipment within and without the corporate limits, provided that the council shall prescribe by ordinance rules for dispatching and operation of fire equipment outside the corporate limits, and to establish, maintain and enforce fire prevention regulations therein.

SECTION 1.05. Repealer. The following acts are hereby repealed in their entirety: Chapter 336 of the Acts of 1903; Chapter 369 of the Acts of 1909; Chapter 370 of the Private Acts of 1911; Chapter 195 of the Private Acts of 1913; Chapter 262 of the Private Acts of 1913; Chapter 298 of the Private Acts of 1915; Chapter 469 of the Private Acts of 1919; Chapter 673 of the Private Acts of 1921; Chapter 283 of the Private Acts of 1923; Chapter 93 of the Private Acts of 1927; Chapter 116 of the Private Acts of 1927; Chapter 263 of the Private Acts of 1931; Chapter 457 of the Private Acts of 1931; Chapter 478 of the Private Acts of 1933; Chapter 173 of the Private Acts of 1941; Chapter 174 of the Private Acts of 1941; Chapter 197 of the Private Acts of 1941; Chapter 322 of the Private Acts of 1941; Chapter 467 of the Private Acts of 1945; Chapter 716 of the Private Acts of 1951; Chapter 481 of the Private Acts of 1953; Chapter 80 of the Private Acts of 1957; Chapter 146 of the Private Acts of 1967; Chapter 211 of the Private Acts of 1972; Chapter 250 of the Private Acts of 1974; Chapter 171 of the Private Acts of 1979; Chapter 40 of the Private Acts of 1981; Chapter 69 of the Private Acts of 1981; and any other private act that may amend the charter of the city.

ARTICLE II

BOARD OF MAYOR AND ALDERMEN, ELECTIONS

SECTION 2.01. Election of Mayor and Aldermen.

(a) On the first Saturday in April of 1998 and every four (4) years thereafter, a nonpartisan election shall be conducted by the Campbell County Election Commission, at the same hours and places for holding general elections, and under the general election laws of the state, to elect a mayor and six (6) aldermen from the city at large, each for terms of four (4) years:

(b) Any person qualified under the general election laws of the state who is domiciled in the City of Jellico, or is a bona fide owner of real estate within the city limits, shall be qualified as electors in city elections. In addition, any person who has been a qualified elector in city elections for a continuous period of one (1) year shall be qualified to be a candidate for the office of mayor and of alderman.

(c) Each elector shall be entitled to vote for one (1) candidate for mayor and six (6) candidates for alderman. The candidate for mayor who receives the highest number of votes, and the six (6) candidates for alderman who receive the highest number of votes, shall be elected for terms of four (4) years. The terms of office of the mayor and aldermen shall begin at 7:00 P.M. on the third Saturday in the month of their election, and they shall serve until their successors have been elected and qualified.

SECTION 2.02. City Board--composition; salaries; meetings; quorum.

(a) The mayor and six (6) aldermen elected under this charter (and the incumbent mayor and aldermen until the expiration of their current terms of office) shall compose the Board, in which is vested all corporate, legislative and other powers of the city.

However, the mayor shall not be considered a member of the Board for the purpose of voting on measures coming before the Board, except as otherwise expressly provided in this charter;

(b) The salary of the mayor shall be two hundred fifty dollars (\$250) each month, and each alderman shall receive a salary of one hundred dollars (\$100) each month. Salaries may be changed at any time by ordinance; provided, however, if the salaries are raised, they shall not become effective until after the next election of city officials. The mayor, aldermen, and employees or agents of the city shall be reimbursed for actual and necessary expenses incurred in the conduct of their official duties;

(c) The Board shall meet regularly at least once every month at the times and places prescribed by ordinance. The Board may meet in special session on written notice of the mayor or of any three (3) aldermen served on the other members of the Board personally at least twenty-four (24) hours in advance of the meeting. The Board shall have the authority in public assembled session, with a quorum present, to exercise all expressly granted or implied powers;

(d) Four (4) aldermen or the mayor and three (3) aldermen shall constitute a quorum; and

(e) The Board may, by ordinance, adopt rules and bylaws to govern the conduct of its business, including procedures and penalties for compelling the attendance of absent members. The Board may subpoena and examine witnesses and order the production of books and papers.

SECTION 2.03. Mayor as presiding officer; veto power etc. The mayor shall preside at the meetings of the Board, but he shall also have a voice and the right to introduce ordinances, resolutions and motions without stepping down from his position as presiding officer. However, the mayor shall vote only in case of a tie. The mayor shall be recognized as the ceremonial head of the city, shall be the officer to accept process against the city, and shall perform other duties imposed upon him by ordinance, not inconsistent with this charter.

The mayor shall have the power to veto ordinances passed by the Board. That power must be exercised by the next regular meeting of the Board following the passage of the ordinance. The vote must be accompanied by a written message from the mayor and delivered to the Board explaining the reasons for the veto. The veto shall not be effective unless it is delivered to the Board no later than immediately preceding the call to order of the above prescribed meeting. The mayor's veto can be overridden by the affirmative vote of four (4) aldermen.

SECTION 2.04. Vice-mayor--election, duties. The candidate for alderman who receives the highest number of votes in each election shall become the vice-mayor. However, that person shall have the right to reject the office of vice-mayor, in which case the Board shall appoint a vice-mayor from among its membership. The vice-mayor shall perform the duties of the mayor during his absence or inability to act in the office of mayor, and shall fill out any unexpired term in the office of mayor. In the latter event, the Board shall select an alderman to serve the unexpired term of the vice-mayor. The vice-mayor shall retain his right to vote while he is performing the function of presiding officer, and shall be counted for the purpose of determining the presence of a quorum.

SECTION 2.05. Vacancy in office of mayor or alderman; effect of malfeasance, etc. A vacancy shall exist if the mayor or aldermen resigns, dies, moves his residence from the city, is recalled, is convicted, in the ordinary sense of the word, of malfeasance or misfeasance in office, a felony, a violation of this charter, or election laws of the state, or a crime involving moral turpitude, fails to attend any meetings of the council for a period of ninety (90) days with no extenuating circumstances, or has been continuously disabled for a period of ninety (90) days so as to prevent him from discharging the duties of his office. The Board shall by resolution, except in the case of a recall, declare a vacancy to exist for any of these reasons, and such finding shall be final.

Any person convicted of malfeasance or misfeasance in office, a felony, or a crime involving moral turpitude shall be prohibited from holding office or employment with the city for a period of ten (10) years thereafter.

The Board shall appoint a qualified person to fill a vacancy in the office of alderman for the remainder of the unexpired term. A vacancy in the office of mayor shall be filled as provided in Section 2.04.

SECTION 2.06. Recall of mayor and/or alderman. Any person holding the office of mayor or alderman of the city, whether by election, succession, or appointment to fill a vacancy, shall be subject to removal from office at a recall election in the manner provided herein;

(a) A recall of an incumbent of an elective office shall be initiated upon petition signed by voters qualified to vote in city elections. A recall petition shall contain signatures equal in number to at least forty percent (40%) of the vote cast for the candidate for office who received the highest number of votes in the preceding city election for the City of Jellico. Every recall petition shall name the officer against whom it is directed and shall contain a statement of one (1) or more specific grounds for removal from office. A separate petition shall be filed for each officer sought to be recalled.

(b) Each elector signing a recall petition shall add to his signature his residence and the date of signing. Signatures on a recall petition may be on separate sheets but each sheet shall have appended to it the affidavit of some person, not necessarily a signer of the petition, that to the best of the affiant's knowledge and belief the persons whose signatures appear on the sheet are registered voters of the City of Jellico, Tennessee.

(c) A recall petition shall be filed with the Campbell County Election Commission. However, the election commission shall not accept for filing any recall petition before six (6) months shall have passed following the election or appointment of the officer sought to be recalled. The election commission shall examine the petition to see whether it contains a sufficient number of apparently genuine signatures. The election commission shall determine the genuineness of any signature or signatures appearing on the recall petition and if it shall find that any such signature or signatures are not genuine, it shall disregard them in determining whether the petition contains a sufficient number of signatures. It shall also disregard any signature dated more than sixty (60) days before the date the petition was filed. The election commission shall eliminate any sheet of the petition which is not accompanied by the required affidavit. The election commission shall complete its

examination of the petition as soon as practical, but no later than thirty (30) days after it has been filed, and shall thereupon approve the petition if valid, or reject it if invalid.

(d) As soon as the Campbell County Election Commission has approved a recall petition, the chairman of the election commission shall immediately in writing sent by regular United States mail notify the incumbent named in the petition that the petition has been approved. Upon receipt of such notice, the incumbent may resign from his office and thereupon the recall proceedings shall terminate.

(e) If the incumbent against whom a recall petition is directed does not resign from his office within ten (10) days after notice of the approval of such petition has been sent to him, the Campbell County Election Commission shall arrange a recall election. However, no recall election shall be called if the election date would fall within ninety (90) days of a regular city election.

The recall election shall be fixed for a date not less than forty-five (45) days nor more than sixty (60) days after the ten (10) days have expired. The incumbent against whom a recall petition is directed may resign at any time prior to the recall election and thereupon the election shall not be held.

(f) The following question shall be presented to each elector in a recall election:

"Shall (name of officer) be recalled and removed from the office of (name of office)?".

The above question shall appear as to every officer whose recall is to be voted upon and provision shall be made for the elector to vote "Yes" or "No" on the question.

(g) If sixty-six and two-thirds percent (66 2/3 %) of the voters who vote on the question at a recall election shall vote "Yes", the incumbent shall be deemed recalled and removed from office.

(h) No person who has been removed from an elective office by a recall election or who has resigned from such an office after a recall petition directed against him has been approved, shall be eligible for election or appointment to any office of the City of Jellico within two (2) years after his removal or resignation.

SECTION 2.07. City legislation--when ordinances necessary; required wording; readings required; emergency ordinances.

(a) Any action of the Board having a regulatory or penal effect, relating to revenue or appropriation of money, awarding franchises, authorizing the borrowing of money, conveying or leasing or authorizing conveyance or lease of any lands of the city, or required to be done by ordinance under this charter or the general laws of the state, shall be done only by ordinance. Other actions of the Board may be accomplished by resolutions or motions.

Ordinances and resolutions shall be in written form before being introduced, and a copy shall be furnished to each member of the Board in advance of the meeting at which introduced. The enacting clause of ordinances shall be "Be it ordained by the Board of Mayor and Aldermen of the City of Jellico". No action of the Board of Aldermen shall be valid or binding unless approved by the affirmative vote of a majority of the Board present at the meeting at which the vote was taken. Any ordinance which repeals or amends existing ordinances shall cite the sections or subsections repealed or amended. Every ordinance, except an emergency ordinance, must be approved on two (2) readings not less than one (1) week apart, and shall become effective after final approval unless its terms provide a later effective date. Only the caption of ordinances and resolutions are required to be read at each reading. Each resolution shall become effective when adopted unless its terms provide otherwise.

To meet a public emergency affecting life, health or property, an emergency ordinance may be adopted on two (2) readings on separate days and become effective immediately, by the affirmative votes of three (3) members of the Board, if the ordinance contains a full statement of the facts creating the emergency. An emergency ordinance shall be effective for only ninety (90) days. Appropriations, revenues, franchises, levy of taxes, or special privileges shall not be passed as emergency ordinances.

(b) The original copies of ordinances, resolutions, contracts and other documents shall be filed and preserved by the city recorder.

ARTICLE III

ORGANIZATION AND PERSONNEL

SECTION 3.01. Organization of City government. The Board by ordinance may establish, abolish, merge or consolidate offices, positions of employment, departments, and agencies of the city; may provide that the same person shall fill any number of offices and positions of employment; and may transfer or change the function and duties of offices, positions of employment, department, and agencies of the city and may prescribe the functions of all departments, offices and agencies not inconsistent with this charter. Provided, however, that the number of members of the Board shall not be changed, the office of the mayor shall not be abolished, and the city recorder shall also be director of the department of finance and taxation. All departments, offices, and agencies shall be administered by the City Administrator or an officer appointed by the City Administrator.

SECTION 3.02. City Administrator - appointment and duties. The Board shall appoint a city administrator, who shall be bonded in an amount set by the Board, to serve at the will of the Board. The city administrator shall be appointed on the basis of his or her executive and administrative qualifications, which shall include, but not be limited to, a college degree preferably with an emphasis in public administration or management and/or at least five (5) years experience in a responsible, professional local government or related position. He or she need not be a resident of the City at the time of appointment but may reside outside the City while in office only with the approval of the Board. The compensation of the city administrator shall be fixed by the Board.

The city administrator shall be the chief administrative officer of the City, responsible to the Board for the administration of all city affairs placed in his or her charge by or under this Charter. The city administrator shall:

(1) Appoint and, when necessary for the good of the City, suspend or remove any city officer or employee except as otherwise provided by this charter or by personnel rules adopted by the Board. The city administrator may authorize any administrative officer subject to his direction and supervision to exercise these powers with respect to subordinates in that officer's department, office or agency;

(2) Direct and supervise the administration of all departments, offices and agencies of the City, except as otherwise provided by this Charter or by law;

(3) Attend all meetings of the Board of Mayor and Aldermen. The city administrator shall have the right to take part in discussion but may not vote;

(4) See that all laws, provisions of this Charter and acts of the Board, subject to enforcement by the city administrator or by officers subject to his direction and supervision, are faithfully executed;

(5) Prepare and submit the annual budget and capital program to the Board;

(6) Submit to the Board of Mayor and Aldermen and make available to the public a complete report on the finances and administrative activities of the City as of the end of each fiscal year;

(7) Make such other reports as the Board may require concerning the operations of City departments, offices and agencies subject to the city administrator's direction and supervision;

(8) Keep the Board fully advised as to the financial condition and future needs of the City;

(9) Make such recommendations to the Board concerning the affairs of the City as may be desirable; and

(10) Perform such other duties as are specified in this Charter or may be required by the Board of Mayor and Aldermen.

Neither the Board nor any of its members shall in any manner dictate the appointment or removal of any City administrative officer or employee whom the city administrator or any subordinate of the city administrator is empowered to appoint, but the Board and members of the Board may express its views and fully and freely discuss with the city administrator anything pertaining to appointment and removal of such officers and employees. However, the Board may participate in the discipline or removal of an employee if Board participation is required through a grievance process as provided in any personnel rules the Board may adopt.

The Board or its members shall deal with City officers and employees who are subject to the direction and supervision of the city administrator solely through the city administrator, except as provided above, and neither the Board nor its

members shall give orders to any such officer or employee, either publicly or privately.

SECTION 3.03. City recorder--appointment and duties. The city administrator shall appoint a city recorder. Following his or her initial appointment, he or she shall be subject to removal by the city administrator only for cause, as provided in any personnel policies adopted by the Board.

The recorder shall have the following powers and duties, or such other powers and duties as may be provided by ordinance not inconsistent with this charter:

(a) To keep and preserve the city's seal and all official records not required by law or ordinance to be filed elsewhere;

(b) To attend all meetings of the Board and to maintain a journal showing the proceedings of all such meetings, the mayor and aldermen present and absent, each motion considered, the title of each resolution and ordinance considered, and the vote of each alderman on each question. This journal shall be open to the public during regular office hours of the city subject to reasonable restrictions exercised by the city recorder;

(c) To prepare and certify copies of official records. Fees for such services may be established by ordinance, to be deposited into the city treasury; and

(d) To serve as head of the department of finance and taxation.

SECTION 3.04. City Attorney--Appointment and duties. The mayor, at the first meeting after each election, shall appoint, and the Board shall confirm, a city attorney, and such assistant city attorneys as may be authorized by ordinance. The city attorney, or an assistant city attorney designated by the board, shall be responsible for representing and defending the city in all litigation in which the city is a party; prosecuting cases in the city court; attending meetings of the Board as required by the Board; advising the Board and other officers and employees of the city concerning legal aspects of their duties and responsibilities; approving as to form and legality all contracts, deeds, bonds, ordinances, resolutions, motions, and other official documents; and performing such other duties as may be prescribed by the Board.

SECTION 3.05. City court.

(a) Number of judges. The number of judges is established as one (1).

(b) Qualifications. The city judge shall: (1) be a resident of the City of Jellico one (1) year immediately preceding his or her election; (2) be a resident of the State of Tennessee five (5) years immediately preceding his or her election; (3) be at least thirty (30) years of age; (4) be licensed to practice law in the courts of Tennessee; and (5) be elected by the qualified voters of the city, except for certain instances and appointments as provided hereinafter.

(c) Municipal jurisdiction. The city judge shall have the authority to try persons charged with violations of city ordinances and to punish

persons convicted of such violations by levying a civil penalty not to exceed the maximum civil penalty allowed under state law.

(d) Concurrent jurisdiction. The city judge shall also have the authority to exercise jurisdiction concurrent with courts of general sessions in all cases involving the violation of the criminal laws of the state within the corporate limits of the city.

(e) General powers. The city judge shall have the power to levy fines, penalties, forfeitures and costs, to issue all necessary process, to administer oaths, and to maintain order, including the power to punish for contempt of court by fine or confinement not exceeding the limits provided by general laws.

(f) Court costs. Costs in trials of offenses against the ordinances of the city shall be provided by ordinance. Costs in other matters shall be as established under general laws of the State of Tennessee.

(g) Bail. The bail of persons arrested and awaiting trials and persons appealing the decision of a city judge shall be fixed by the city judge and upon such security as in his or her discretion he or she deems necessary or as otherwise may be provided by ordinance or general law.

(h) Separation of powers. The city judge shall be the exclusive judge of the law and facts in every case before him or her and no official or employee of the city shall attempt to influence his or her decision except through pertinent facts presented in court.

(i) Popular election of judge. The city judge shall be popularly elected, subject to the provisions for initial appointment as provided and appointments to fill any vacancy.

(j) Election procedure and term. The city judge shall be elected by the qualified voters of the city at the August general election of 1998, and every eight (8) years thereafter, in accordance with Article VII, Section 5 of the Tennessee Constitution. The city judge shall take office September 1 next following his or her election.

(k) Vacancy. A vacancy in office of the city judge shall be filled by appointment by the board of mayor and aldermen. The person appointed, however, may serve only until the next regular August general election. At such election, a person shall be elected to serve any unexpired term if the full term of his or her successor is not to be filled at such election. In the temporary absence or inability of the city judge, the board of mayor and aldermen shall appoint a qualified person to serve until the judge's return.

(l) Compensation. The salary and any other benefits relating to the office of the city judge shall be established by the board by ordinance prior to the commencement of the term of office and shall not be increased nor diminished during such term. The salary shall be paid monthly from the general fund of the city.

(m) Records; docket; city clerk. The city does not choose to elect the city court clerk. The city recorder shall have the duty of maintaining all records of the city court in accordance with applicable laws. The city

may employ a person, or designate an existing employee, to assist the city recorder in this function and such person shall be designated as city court clerk. The board shall require the proper maintenance of the docket of the city court and other records of the court. Subject to general law and the authority of the city judge, the board shall fix the regular time for holding court.

SECTION 3.06. Officers and employees--salaries. Only the offices and positions of employment provided for in the annual budget, or as specifically approved by the Board shall be filled. Salaries for all positions shall be in accordance with a pay plan adopted by ordinance at the beginning of the fiscal year. In determining salaries, due consideration shall be given to duties, responsibilities, technical knowledge and skill required to satisfactorily perform the work, and availability of persons having the qualifications desired.

SECTION 3.07. Employees-appointment, promotion and term, etc. The Board shall be entitled to adopt personnel rules and regulations governing the appointment, promotion, term and other employment conditions of the employees of the city. However, in the absence of such personnel rules and regulations all city employees shall be employees at will, except the police and fire chiefs, and except as elsewhere provided in this charter. The police and fire chiefs shall be removed only for cause, as provided in any personnel policies adopted by the Board.

SECTION 3.08. Oath of office. Before a person takes any office in the city government, he shall subscribe to the following oath or affirmation, administered by a magistrate:

"I solemnly swear (or affirm) that I will support the Constitution and will obey the laws of the United States and of the State of Tennessee, that I will in all respects, observe the provisions of the Charter and ordinances of the City of Jellico, and that I will faithfully discharge the duties of the office of _____."

SECTION 3.09. Official bonds. The mayor, recorder, city administrator, and every officer, agent, and employee of the city having duties embracing the receipt, disbursement, custody, or handling of money, and other officers and employees designated by the Board, shall give a fidelity bond or faithful performance bond, as determined by the Board, with some surety company authorized to do business in the State of Tennessee as surety, in such amounts as shall be prescribed by the Board. All such bonds and sureties thereto shall be subject to approval by the Board. The cost of such bonds shall be paid by the city. Such bonds shall be blanket bonds covering offices and positions to be bonded, and individual bonds may be secured only when blanket bonds are not obtainable.

SECTION 3.10. Political activity prohibited. Employees of the City may individually exercise their right to vote and express their political views as citizens. However, employees may not engage in any political activity while at work. Employees may not run for election to the Board of Mayor and Aldermen.

ARTICLE IV

FISCAL ADMINISTRATION

SECTION 4.01. Fiscal year. The fiscal year of the city government shall begin on the 1st day of July and shall end on the 30th day of June of the succeeding year, unless otherwise provided by ordinance.

SECTION 4.02. City Administrator to submit annual budget. Not later than forty-five (45) days prior to the beginning of each fiscal year, the city administrator shall submit to the Board a proposed budget for the next fiscal year, showing separately for the general fund, each utility, and each other fund the following:

- (a) revenue and expenditures during the preceding year;
- (b) estimated revenue and expenditures for the current fiscal year;
- (c) estimated revenue and recommended expenditures for the next fiscal year, not to exceed the amount of estimated revenue;
- (d) a comparative statement of the cash surplus (or deficit) at the end of the current fiscal year; and
- (e) any other information and data, such as work programs and unit costs, in justification of recommended expenditures that may be requested by the Board. The budget shall be accompanied by a message containing a statement of the general fiscal policies of the city, the important features of the budget, explanation of major changes for the next fiscal year as compared with the current fiscal year, a general summary of the budget, and such other comments and information as may be deemed pertinent. A sufficient number of copies of the message shall be reproduced to furnish a copy to any person desiring one. A copy of the budget in full shall be filed with the city recorder for public inspection and a copy shall be furnished to each alderman.

SECTION 4.03. Capital improvement budget. A capital improvement budget may also be prepared to include a description of projects recommended for the ensuing year. The capital improvement budget shall be reviewed by the local planning commission, and the recommendations of the planning commission shall be submitted by the mayor to the Board concurrently with the annual budget. The Board may accept, reject or revise the capital improvement budget as it deems desirable.

SECTION 4.04. Public hearing. After receiving the proposed budget, the Board shall fix a time and place for a public hearing thereon, and shall cause a public notice thereof and an announcement of where and when the full budget may be examined to be published two (2) times in a newspaper of general circulation in the city, the last such publication to be at least ten (10) days in advance of the date of the hearing. The public hearing shall be held before the Board at the stated time and place, and all persons present shall be given a reasonable opportunity to be heard.

SECTION 4.05. Action by Board on budget - emergencies; amendments; reallocation; monthly report by mayor. After the public hearing and before the beginning of the ensuing fiscal year the Board shall adopt an appropriation ordinance, based on the city administrator's proposed budget with such modifications as the Board considers necessary or desirable. The Board shall not make an appropriation in excess of estimated revenue, except to provide for an

actual emergency threatening the health, property or lives of the inhabitants of the city declared by a vote of all members of the Board. If emergency conditions prevent the adoption of an appropriation ordinance before the beginning of the new fiscal year, the appropriations for the last fiscal year shall become the appropriations for the new fiscal year, subject to amendment as provided in this section. An amendment may be made to the original appropriation ordinance at any time during a current fiscal year after ten (10) days notice published in the newspaper and a public hearing before the Board. Appropriations, except emergency appropriations as provided above, may be increased during the year only after the mayor certifies in writing that a sufficient amount of unappropriated revenue will be available. Funds may be reappropriated, re-allocated or re-obligated between departments, activities or agencies within a single fund account, i.e.; The General Fund Account, The Utility Fund Account, The Street Aid Fund Account, etc. with the consent of the Board which has been duly entered upon the minutes thereof. Transfers of funds between fund accounts, not to exceed the original total appropriations of all funds, may be made by resolution. Any portion of an annual budget remaining and unencumbered at the close of the fiscal year shall lapse and be subject to appropriation for the following year. Any balance remaining in any fund other than the general fund at the end of the fiscal year may remain to the credit of such fund and be subject to further appropriation. At the end of each month the city administrator shall submit to the Board a budget report showing revenue receipts, encumbrances and expenditures for the month and for the fiscal year to the end of that month.

SECTION 4.06. Control of expenditures. The city administrator, subject to the approval of the Board, shall be responsible for controlling expenditures of the various agencies of the city government to accomplish maximum efficiency and economy. No expenditures shall be made in excess of appropriations.

SECTION 4.07. Centralized purchasing. Purchases or contracts of more than five hundred dollars (\$500) shall require prior approval of the Board, and except for minor items used infrequently or items which must be obtained immediately to avoid disruption of services, shall be subject to competitive bid, subject to such regulations as may be provided by ordinance. Any expenditure or contract for more than two thousand five hundred dollars (\$2,500) shall be made only after sealed bids have been invited. Purchases and contracts shall be awarded to the lowest responsible bidder, but all invitations to bid shall state that the city reserves the right to reject any and all bids. The Board may waive the requirements to obtain bids when there is only one (1) source of supply or when such action is in the best interest of the city, providing the reasons for any such waiver are made a matter of record. Bid records shall be preserved for a period of not less than two (2) years. Bids need not be taken for professional services and services for which the rates or prices are regulated by public authority, nor shall competitive bidding be required for purchases from other governmental agencies.

SECTION 4.08. Unauthorized contract or expenditure. Any contract or agreement made in violation of the provisions of this charter or ordinances of the city shall be void and no expenditure shall be made thereunder. Every officer and employee who shall knowingly make or participate in any such contract or agreement, or authorize or make any expenditure thereunder and their sureties on their official bonds, and every person who shall knowingly receive such a payment, shall be jointly and severally liable to the city for the full amount so paid or received. A violation of this section by any officer or employee shall be cause of his removal.

SECTION 4.09. Sale of city property. The mayor may, with prior approval of the Board, sell city property which is obsolete, surplus, or unusable after advertisement in a local newspaper requesting sealed bids or directing a public auction; provided, however, that any sale of real estate shall be subject to approval by the Board.

SECTION 4.10. Annual audit. Within thirty (30) days after the beginning of each fiscal year the Board shall employ an independent, certified public accountant to make an audit of all financial records of the city for that year. The auditor shall perform adequate sampling to determine validity of the records. Each such audit shall include determination of legality of transactions, mathematical accuracy of records, complete accountability, and application of accepted municipal accounting principles. It shall be made in accordance with generally accepted auditing standards and in conformity with generally accepted accounting principles and any applicable state and/or federal audit guidelines. The audit shall be completed and a report, including a summary for publication, shall be submitted to the Board within ninety (90) days after the end of the fiscal year.

SECTION 4.11. Bonds for public works contracts. Each bid on a contract for any public works or improvement shall be accompanied by a cash or surety company bid bond in the amount of five percent (5%) of the amount of the bid. Before any contract is awarded, the contractor shall give a bond for the faithful performance of the contract, with a surety company authorized to transact business in Tennessee, in an amount equal to one hundred percent (100%) of the contract price. The Board may waive these requirements for contracts under five thousand dollars (\$5,000).

SECTION 4.12. Property taxes. All property subject to taxation shall be subject to the property tax levied by the county. The Board shall use county assessments and assess all property subject to taxation except property assessed by the Tennessee Regulatory Authority.

SECTION 4.13. Omitted property. If county assessments are used, the city recorder shall add to the assessment rolls any taxable property that may have been omitted by the county assessor. Such property shall be appraised and assessed at the same ratio as other property of the same class located in the city.

SECTION 4.14. Tax levy. The Board shall make a tax levy, expressed as a fixed rate per one hundred dollars (\$100) of assessed valuation, not later than ninety (90) days prior to the tax due date. In event of the Board's failure to do so, the prior year's rate shall continue in effect.

SECTION 4.15. Tax due dates and tax bills. The due dates of property tax shall be fixed by ordinance and provisions may be made for equal or semi-annual installments. The city shall send two (2) bills to taxpayers, showing the assessed valuations, amounts of taxes due, tax due dates, and information as to delinquency dates and penalties. Failure to send tax bills shall not, however, invalidate any tax, penalty, or interest thereon. Property taxes shall become delinquent thirty (30) days after a due date, at which time such taxes shall be subject to interest at the rate of one and one-half percent (1-1/2%) for each month or fraction thereof until paid. On and after the date when such taxes become delinquent, the tax records of the city shall have the force and effect of a judgment of a court of record.

SECTION 4.16. Delinquent taxes. The Board may provide by ordinance for the collection of delinquent taxes by distress warrants issued by the mayor for the sale of goods and chattels to be executed by any police officer of the city under the laws governing execution of such process from a magistrate; or, by the county trustee as provided by general law; or, by the city attorney acting in accordance with general laws providing for the collection of delinquent city or county taxes; or, by garnishment; or, by suits in chancery; or, by any two (2) or more of the foregoing methods, or by the use of any other available legal processes and remedies. If not otherwise collected, the city attorney or other attorney designated by the Board, shall file suit for collection of all delinquent taxes not later than eighteen (18) months following date of delinquency.

SECTION 4.17. Taxes not to be excused. No officer or employee of the city shall have the authority to excuse taxes, penalties, interest, special assessments, or other charges due the city, but errors may be corrected when authorized by the Board.

SECTION 4.18. Disbursements by checks. All disbursements, except for any agency of the city administered by a board or commission, shall be made by checks signed by the city recorder or city administrator and countersigned by the mayor. The Board may by resolution designate other officers to sign such checks in the absence or disability of the mayor, city administrator, or city recorder.

SECTION 4.19. Official depository. The Board shall designate an official depository or depositories for deposit and safekeeping of funds of the city with such collateral security as may be deemed necessary by the Board.

SECTION 4.20. Accounting. The financial records of the city will be established and maintained in general conformity with the accounts and procedures recommended by the office of the Comptroller, State of Tennessee, the Government Finance Officer's Association, or other nationally recognized authority on municipal accounting.

ARTICLE V

INTERGOVERNMENTAL COOPERATION AND CONTRACTING

SECTION 5.01. Intergovernmental cooperation and contracts. In addition to other powers granted in this charter, the Board shall have power to contract and cooperate with any other municipality or other political subdivision of the state, or with an elective or appointive official thereof; or with any duly authorized agency of the federal or state government, for the exercise of any power or function which the city is authorized to undertake by this charter.

SECTION 5.02. Execution of such powers. The Board may exercise the powers conferred in this article by ordinance or resolution setting out the terms to be included in any such contract or cooperative action, and any of them may acquire, by gift or purchase, or by power of eminent domain exercised by one (1) or more of the parties, the lands, buildings, and other property necessary or useful for the purpose of the contract or cooperative action, either within or without the corporate limits of one (1) or more of the contracting parties, and shall have the power to hold or acquire such property jointly. The city may provide for the financing of its share or portion of the cost or expenses of such a contract or cooperative action in the same manner as if it were acting alone and on its own behalf.

Such a contract also may provide for the establishment and selection of a joint commission, officer or officers to supervise, manage, and have charge of joint services or projects and may provide for the powers and duties, terms of office, compensation, if any, and other provisions relating to the members of such joint commission, officer or officers. Such contract may include and specify terms and provisions relative to the termination or cancellation of the contract or cooperative action by ordinance or resolution, and the notice, if any, to be given of such termination or cancellation. Such cancellation or termination shall not relieve any party participating in such contract or cooperative action from any obligation or liability for its share of the cost or expense incurred prior to the effective date of any such cancellation or termination.

SECTION 5.03. Immunity and liabilities of officers. All public officers acting under the authority of a contract or undertaking cooperative action under the provisions of this article shall enjoy the same immunities and be subject to the same liabilities as if they were acting entirely within the territorial limits of their respective governmental units.

SECTION 5.04. Handling of funds. All money received pursuant to any such contract or cooperative action, under the provisions of this article, unless otherwise provided by law, shall be deposited and disbursed in accordance with the provisions of such contract or cooperative action.

ARTICLE VI

MISCELLANEOUS PROVISIONS

SECTION 6.01. Other general laws may be used by city. Notwithstanding any provisions of this charter, the Board may elect to operate under or adopt any general law or public act available to municipalities of the state in lieu of, or in addition to, provisions of this charter.

SECTION 2. Nothing in this act shall be construed as having the effect of altering the salary of any incumbent prior to the end of the term for which such public officer was elected.

SECTION 3. This act shall have no effect unless it is approved by a two-thirds (2/3) vote of the legislative body of the City of Jellico. Its approval or nonapproval shall be proclaimed by the presiding officer of the City of Jellico and certified to the Secretary of State.


SECTION 4. For the purpose of approving or rejecting the provisions of this act, it shall be effective upon becoming a law, the public welfare requiring it. For all other purposes, it shall become effective upon being approved as provided in Section 3.

PASSED: January 26, 1998


JIMMY RAIFEH, SPEAKER
HOUSE OF REPRESENTATIVES


JOHN S. WILDER
SPEAKER OF THE SENATE

APPROVED this 6th day of February 1998


DON SUNDQUIST, GOVERNOR